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ABSTRACT

Procedures for receiving permission from the Federal Communications Commission (FCC) for authority to construct a radio or television broadcast station are outlined. Instructions for selecting a facility, applying for a construction permit, and giving local notice of intentions are included, along with sections on the hearing procedure, construction permit, license, sales and transfers, construction changes, and application fees. (JK)

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How To Apply For A Broadcast Station

INFORMATION BULLETIN

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GENERAL

Any qualified citizen, firm, or group may apply to the Federal Communications Commission for authority to construct a standard (AM), frequency modulation (FM), or television (TV) broadcast station.

Licensing of these facilities is prescribed by the Communications Act of 1934, as amended, which sets up certain basic requirements. In general, applicants must satisfy the Commission that they are legally, technically and financially qualified, and that operation of the proposed station would be in the public interest.

The licensing procedure is detailed in Part 1 of the Commission's rules, "Practice and Procedure." Station operation is covered by Part 73 (formerly Part 3) "Radio Broadcast Services." This includes technical standards for AM, FM and TV stations, and TV and FM channel (frequency) assignments by states and communities. Copies of these rules are available from the Government Printing Office.

Most applicants employ engineering and legal services in preparing their applications. The Commission does not make technical or other special studies for prospective applicants nor does it recommend individual laywers or engineers. Names of firms and individuals practicing before the Commission are listed in various trade publications.

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Following is a summary of the consecutive steps to be followed in applying for authorization to build and operate a broadcast station. The application procedure is substantially the same whether the facility sought is AM, FM or TV.

SELECTING A FACILITY

An AM applicant must make his own search for a frequency on which he can operate without causing or receiving interference from existing stations and stations proposed in pending applications. AM broadcast stations operate on "local", "regional", or "clear" channels. Stations of 250 watts power nighttime and up to 1 kilowatt daytime serve small communities; stations of 500 watts to 5 kilowatts power cover centers of population and surrounding areas; stations of 10 to 50 kilowatts power are for large area coverage, particularly at night.

An FM station applicant must request an FM channel assigned to the community in which he proposes to operate, or a place within a 10-mile radius (for Class A FM stations) or a 15-mile radius (for Class B or Class C FM stations), which has no FM channel assignment. Power, antenna height and station separation are governed by the zone in which the station is located. There are three classes of commercial FM stations and three zones. Class A stations use power from 100 watts to 3 kilowatts to cover a radius of about 15 miles; Class B stations, 5 kilowatts to 50 kilowatts for 40-mile service and Class C, 25 kilowatts to 100 kilowatts for 65-mile range. Noncommercial educational FM stations are in a separate category and may operate with power as low as 10 watts. Commercial and educational FM stations may apply for a "Subsidiary Communications Authorization" (Form 318) to furnish certain supplemental services. FM stations may engage in stereophonic broadcasting, for which no special application is required.

An applicant for a TV station must request a VHF (Very High Frequency) or a UHF (Ultra High Frequency) channel assignment to the community in which he proposes to operate, or a place having no channel assignment within 15 miles of that community. Power depends upon the kind of channel used (VHF or UHF) and station separation is determined by three zones. TV "translator" stations serve remote communities by picking up and rebroadcasting the programs of outside stations, with the latter's permission. They operate on any VHF channel or on any unassigned UHF channel between between 55 and 69 or on any assigned channel. Certain channels are assigned for noncommercial educational TV operation. There is a "Community Antenna Relay Service" for non-common carrier microwave facilities to relay TV signals to community antenna (CATV) systems.

APPLYING FOR A CONSTRUCTION PERMIT

After a prospective broadcaster has decided upon the type of station he desires, and the place where it would be located, he should ascertain and plan to meet the programing needs of the locality he intends to serve. The next step is to apply for a construction permit. This is done on FCC Form 301, "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Station," which covers AM, FM or TV broadcast, except educational applicants who use FCC Form 340, FM and TV translators (Form 346) and FM booster stations (Form 349P). These forms require information about the citizenship and character of the applicant, as well as his financial, technical and other qualifications, plus details about the transmitting apparatus to be used, antenna and studio locations, and the service proposed. Commercial broadcast applicants are required to show their financial ability to operate for one year after consturction of the station. Triplicate copies are required. Non-

profit educational institutions apply for new or changed instructional TV fixed stations on Form 330-P.

APPLICANTS MUST GIVE LOCAL NOTICE

Applicants for new broadcast stations, license renewals, station sales or major changes in existing stations must give local public notice of their plans and also of any subsequent designation of their applications for hearing. This is done over the applicant's local station (if any) and by advertising in the local newspaper. It affords interested persons an opportunity to comment on these applications to the Commission. Applicants and stations must also maintain public reference files in their respective localities.

APPLICATION PROCESSING

All broadcast applications (except translators) are reported twice by the Commission--when first tendered (received) and, again, when formally accepted for filing. An application is not acted upon until at least 30 days after the Commission gives public notice of its acceptance. During that time objecting petitions may be filed.

Competing AM applications may be filed up to a date in a notice of AM applications ready for processing. It usually is about 30 days following that notice. Competing FM and TV applications may be filed up to the day the initial application is ready for Commission consideration.

Applications are, in general, processed in the order in which accepted. They are reviewed for engineering, legal and financial data by the Broadcast Bureau which, under delegated authority, acts on routine applications and reports to the Commission applications involving policy or other particular considerations. If an application has no engineering or other conflicts and no valid protests have been received, the applicant is found qualified. Assuming all other

requirements are met, the application may be granted without hearing and a construction permit issued. All such grants are announced by the Commission. Petitions for reconsideration of grants made without hearing can be filed within 30 days but must show good cause why the objections were not raised before the grant.

HEARING PROCEDURE

Where it appears that an application does not conform to the Commission's rules and regulations, that serious interference would be caused, if there is protest of merit, or if other serious questions of a technical, legal or financial character develop, a hearing is usually required. The Commission must accord a hearing to competing applications filed within specified time limits.

In designating an application for hearing, the Commission gives public notice of the issues for the information of the applicant and others concerned. The hearing notice generally allows the applicant 60 days or more in which to prepare. Even after the hearing has been set, an applicant may amend his application to resolve engineering or other problems. (Commission approval is required for all mergers or situations in which a competing applicant withdraws on payment of expenses.)

Hearings on competing applications are normally held at the Commission's Washington offices. Hearings on license revocations and renewals are held in the communities affected.

Hearings are customarily conducted by an examiner. He has authority to administer oaths, examine witnesses and rule upon the admission of evidence. A prehearing conference is held to reach agreement on procedural matters.

Within 20 days after the close of a record by the hearing examiner, each party and the Chief of the Broadcast Bureau of the Commission can file proposed findings of fact and conclusions to support their contentions. After review of the evidence and statements, the hearing examiner issues an initial decision.

If he wishes to contest the initial decision, the applicant or any other party in interest has 30 days from the date on which the initial decision was issued to file exceptions. In all cases heard by an examiner, the Commission or its Review Board may hear oral argument on timely request of any party. After oral argument, the Commission or the Review Board may adopt, modify or reverse the hearing examiner's initial decision. In cases where the Review Board has acted on the exceptions, an appeal from its decision may be taken to the Commission within 30 days. The Commission may, however, deny an appeal for review without stating reasons for such action.

Court appeals can be taken within 30 days following release of the final decision, in which case the Commission's action is stayed pending court determination.

CONSTRUCTION PERMIT

When an application is granted a construction permit is issued. The new permittee may then request call letters which, if available and conforming to the rules, are issued. A period of 60 days from date of the construction permit is provided in which construction shall begin, and a maximum of six months thereafter as the time for completion (or eight months in all). Application to make changes in an existing station is made on the same form used in seeking initial construction authorization (Form 301). Application to modify a broadcast construction authorization or to modify a license is made on Form 301-A "Request for Modification of Broadcast Station Authorization." If the permittee is unable to build his station within the time specified,

he must apply for extension of time on Form 701 ("Application for Additional Time to Construct a Radio Station"), giving reasons. Upon completion of construction the permittee conducts equipment (not program) tests.

LICENSE

The final step is to apply for the actual license on Form 302 ("Application for New Broadcast Station License"), or Form 341 (for Noncommercial Educational FM stations), Form 347 (for TV and FM translators), or Form 349L (for FM boosters). Applicants must show compliance with all terms, conditions and obligations set forth in the original application and the construction permit. Not until he applies for a license can the holder of a construction permit request authority to conduct program tests. The license application form provides a space for program test requests, or it can be made separately. A station license and program test authority are issued if no new cause or circumstance has come to the attention of the Commission that would make operation of the station contrary to public interest.

Applicants for renewal of station license must show that they have operated according to the terms of their authorizations and the promises they made in obtaining them. Most renewal applications are made on Form 303 ("Application for Renewal of Broadcast Station License"). Noncommercial educational licensees, however, use Form 342; TV and FM translators Form 348 and FM boosters Form 349R. Pending the disposition of any Commission hearing or other proceeding involving license renewal or revocation considerations, the station continues to operate even though its license term may have expired.

SALES AND TRANSFERS

If the holder of a construction permit or license desires to assign it to someone else, he makes application on Form 314 ("Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License"). Should the permittee or licensee wish to transfer corporate control, he applies on Form 315 ("Application for Consent to Transfer Control of Corporation Holding Radio Broadcast Station Construction

Permit or License"). Form 316 ("Application for Assignment or Transfer--Short Form") may be used when the transfer or assignment involves no substantial change in interest. Sales of stations held less than three years are subject to hearing except in case of death, hardship or other mitigating circumstances beyond the licensee's control.

CONSTRUCTION CHANGES

Applicants for authority to make construction changes in existing stations apply on the same form used for a construction permit for the type of station involved.

APPLICATION FEES

Since March 17, 1964, the Commission has charged fees for most application filings in order to comply with Government policy to charge for certain Federal services. On July 1, 1970, a new fee schedule was adopted for broadcast stations, which includes three types of charges: (1) a filing fee (the only type of fee previously charged) payable when the application is tendered; (2) a grant fee, payable when the application is granted; and (3) an annual operating fee, paid by all commercial AM, FM and TV stations, in lieu of the renewal application fee previously charged. Application filing fees for construction permits, generally considerably higher than those previously charged, vary with the type of station, from $25 for a daytime-only 250-watt nondirectional AM station permit and $100 for a class A FM, to $5,000 for a VHF TV permit in the top-50 markets (in TV, though not in radio, fees vary with market size; top 50, next 50, and other; and there is also a VHF-UHF difference). An extra filing fee of $50 is charged for a directional antenna application. Applications for major changes are charged the same fee as those for new stations. The grant fee is charged on the same scale, nine times the amount of the application fee. For assignments of licenses and transfers of control (other than involuntary transfers), the filing fee is $1,000 (per license) and the grant fee is two percent of the consideration (selling price) for the assignment or transfer, payable on consummation. The annual

operating fee is based on a station's highest commercial announcement rate: in AM and FM, the highest one-minute rate multiplied by 24 and in TV the highest 30-second rate multiplied by 12, with a minimum of $52 in radio and $144 in television. Most "other" applications, such as for covering licenses and minor changes, entail a filing fee of $50 and no grant fee; requests for important Special Temporary Authorizations (STAs) or waiver of the rules in the broadcast services require a filing fee of $50 and a grant fee of $25; involuntary assignments or transfers of control require a filing fee of $250 (per station where more than one is involved) and no grant fee; and applications for subscription television authorizations entail a $1,000 filing fee but no grant fee.

Translators and noncommercial educational stations are exempt from fees. In adopting the new fee schedule, the Commission recognized that the amount of fee for assignment/transfer grants--two percent of consideration--may be difficult to determine where the consideration includes elements other than cash or property with an ascertainable market value. The Commission stated that a rule of reason would be followed. In difficult cases, parties are invited to consult with Commission personnel with respect to the value to be attributed.

August 1, 1970, was the generally effective date of the new schedule. Grant fees were not charged where the application was on file before July 1, 1970. The annual operating fee for broadcast stations is due each year on the anniversary of the station's license expiration date. For the first year, the fee will be a pro rata share of the annual fee from August 1, 1970.

The fee schedule will be subject to continuing review, to determine whether changes in over-all or comparative levels are in order.

PRINTED RULES

FCC rules may be obtained only through the Government Printing Office, Washington, D. C. 20402. The rules on FCC practice and procedure are contained in Volume I, which is available for $4.50 a copy; the broadcast rules are contained in Volume III, for $10.00. Orders should be sent to the Government Printing Office direct (not through the FCC). The printed rules are sold on a subscription basis, which entitles the purchaser to receive subsequent amendments to the rule part purchased until an over-all revised issue is printed.

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